THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.20659 OF 2001

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ORDER:

The petitioners, three in number, claim to be the assignees in respect of the land to an extent of Ac.2.50 cents each, in Sy.No.148-A.P of Ramakrishnapuram village, Palasa Mandal, Srikakulam District. It is stated that the lands were assigned in their favour in the year 1970, and since then they have been continuing in possession and enjoyment of the same. On 5.9.2001, the petitioners approached the 3rd respondent- Mandal Revenue Officer, Palasa, requesting for issuance of Pattedar Pass Books. In pursuance thereof, the Village Administrative Officer and other officials inspected the land on 6.9.2001 and having found that the petitioners are in possession and enjoyment of the land, advised them to apply for Pattedar Pass Books. Immediately, on 7.9.2001 the petitioners have applied for Pattedar Pass Books and the same has been acknowledged by the 3rd respondent. However, on 15.9.2001 when the petitioners were getting the land cleared by engaging workmen, some miscreants posing themselves to be the residents of Boddapadu village attempted to forcibly occupy the land in question. Again, they made such an attempt on 21.09.2001. In the circumstances, the petitioners lodged a complaint with the 4th respondent-Station House Officer, Kasibugga P.S. Though the 4th respondent acknowledged the receipt of the complaint, no further action has been taken. The petitioners also made a complaint to the 2nd respondent-Superintendent of Police, Srikakulam District on 27.09.2001 under Section 154 (3) of the Code of Criminal Procedure, requesting to give appropriate directions to the 4th respondent, to take necessary action on their complaint. They also approached the District Collector and District Magistrate, under Section 17 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, the respondents failed to take any action, and failed to provide protection as sought by the petitioners. Hence, this Writ Petition seeking a declaration that the alleged inaction on the part of the respondents in protecting the rights of the petitioners in respect of the land in their possession and enjoyment in Survey No.148/A.P situated at Ramakrishnapuram Village, Palasa Mandal, Srikakulam District, as arbitrary and illegal.

This Court while issuing *Rule Nisi* by order dated 4.10.2001 directed the 2nd respondent to take appropriate administrative action, including by way of appropriate directions to the 4th respondent, if warranted, on the representation of the petitioners dated 27.9.2001 forthwith.

The 4th respondent-Sub-Inspector of Police, Kasibugga P.S., filed a counter-affidavit stating that on the basis of the complaint made by the petitioners, the then Sub-Inspector of Police, made necessary enquiries, however, the 1st petitioner could not reveal the names of any persons alleged to have interfered with her possession. The petitioners 2 and 3 have not approached on that day, or thereafter, with any complaint, as pleaded. It is also stated that in pursuance of the complaint made before the 2nd respondent - Superintendent of Police, dated 30.09.2001, in which the petitioners have mentioned the names of the Village Administrative Officer and some other villagers and requested to take action against them under the provisions of the the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the then Sub-Inspector of Police recorded the statement of the Village Administrative Officer. During the investigation, it was found that there was no survey number 148/A in the entire revenue sub-division. It is also stated that he took up investigation on the complaint lodged by the 1st petitioner and recorded the statement of the 1st petitioner. In her statement, the 1st petitioner stated that she was assigned the land in question by the then Tahsildar and that she has been cultivating the land, but she could not identify the same. He also made enquiries with the Mandal Revenue Officers of Sompeta and Mandasa Mandals, who stated that the 1st petitioner had applied for Pattedar Pass Book duly enclosing BDR only on 8.2.2001, which were said to have been issued by the then Tahsildar. Accordingly, he submitted a report to the Superintendent of Police concluding that the complaint lodged by the petitioner has no merit. He, however, stated that in case the revenue authorities confirm the allotment of land over the disputed land, appropriate protection would be provided to the petitioners from miscreants or unsocial elements and necessary action would be taken against the offenders in accordance with law.

The petitioner filed an affidavit, in reply, disputing the version of the 4th respondent that the petitioners are not in possession and enjoyment of the land in question. It is

to be noted that on behalf of the 2nd respondent, Joint Collector, Srikakulam District, filed a separate counter-affidavit in which it is stated that the petitioners were assigned land in Survey No.148/A of Ramakrishnapuram village, erstwhile Sompeta Taluk, during the year 1978. He has also furnished the details of the said assignment, which shows that each of the petitioners was assigned Ac.5-00 cents of land in Ramakrishnapuram village. However, it appears that the Adangals do not contain the names of the petitioners, and on the basis of the same, the Revenue Divisional Officer, Tekkali reported that the petitioners never cultivated the land assigned to them since 1978 and they violated the conditions of the assignment. The 1st respondent further stated that the petitioners were advised to cultivate the land assigned to them so as to record their enjoyment in the village records, which would enable the Mandal Revenue Officer for issuance of the Pattedar Pass Books.

Having regard to the material available on record and having heard the learned counsel for the petitioners as well as the learned Government Pleader appearing for the respondents, it is clear that the petitioners were assigned the land in question long back in the year 1978. However, it appears that for some time they were not able to cultivate the land in question.

The learned counsel for the petitioners across the bar submits that as of today the petitioners are very much in possession and enjoyment of the land in question and the applications made by the petitioners to the Revenue Officials for issuance of Pattedar Pass Books have also been favourably considered by the revenue Officials.

As can be seen from the counter affidavit filed by the 4th respondent, it is not in dispute that the petitioners have made applications on 8.9.2001 requesting for issuance of Pattedar Pass Books. Having regard to the counter-affidavit filed by the 4th respondent explaining the steps taken in pursuance of the complaint made by the 1st petitioner, it is clear that all the necessary enquiries have been made by the 4th respondent. Hence, the alleged inaction on the part of the respondents appears to be not correct.

It is also relevant to note that in the counter-affidavit filed by the 1st respondent, it is categorically stated that the petitioners were advised to cultivate the land assigned to them so as to record their enjoyment in the village records, in which

event, the Mandal Revenue Officer will consider their request for issuance of Pattedar Pass Books.

In the circumstances, no adjudication on merits is required. Accordingly, recording the statement of the 4th respondent in his counter-affidavit, the Writ Petition is disposed of with a direction to the respondents to consider the request made by the petitioners for issuance of Pattedar Pass Books and to take necessary action in accordance with law, as expeditiously as possible, preferably within a period of 8 (eight) weeks from the date of receipt of this order. No costs.

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(G. ROHINI, J.)

29th November, 2005.

Kgr.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.20659 OF 2001

29th November, 2005.

Between:

B. Kamala and

two others. .. Petitioners.

And

The District Collector & District Magistrate,
Srikakulam District, Srikakulam and three
others. .. Respondents.